

BILL NO. Z-86-1015

ZONING MAP ORDINANCE NO. Z-

*Lush*

AN ORDINANCE amending the City of  
Fort Wayne Zoning Map No. 0-18.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is  
hereby designated a B-3-B (General Business) District under  
the terms of Chapter 33 of the Code of the City of Fort  
Wayne, Indiana of 1974:

A parcel of land situated in Bush's Homestead of the  
City of Fort Wayne, described as follows: Commencing  
at the intersection of the north line of State Street  
and the east line of Crescent Avenue; thence east along  
the north line of State Street a distance of 70 feet to  
a point; thence north parallel with the east line of  
Crescent Avenue a distance of 140 feet to a point;  
thence west parallel with the north line of State  
Street a distance of 47 feet; more or less, to a point  
in the easterly line of St. Joe Road formed by the  
intersection of the easterly line of St. Joe Road and  
the south line of alley; thence southwesterly along the  
easterly line of St. Joe Road to its intersection  
of east line of Crescent Avenue, approximately 38 feet;  
thence south along the east line of Crescent Avenue a  
distance of 115.7 feet to the point of beginning,  
commonly known as the Northeast corner of State Street  
and Crescent Avenue,

and the symbols of the City of Fort Wayne Zoning Map No.  
0-18, as established by Section 11 of Chapter 33 of the Code  
of the City of Fort Wayne, Indiana are hereby changed  
accordingly.

SECTION 2. That this Ordinance shall be in full force  
and effect from and after its passage and approval by the  
Mayor.

*[Signature]*  
COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

*[Signature]*  
BRUCE O. BOXBERGER, CITY ATTORNEY



Read the first time in full and on motion by E. E. Smith  
seconded by Redd, and duly adopted, read the second time  
by title and referred to the Committee E. E. Smith (and the C  
Plan Commission for recommendation) and Public Hearing to be held after  
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,  
Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.,

DATE: 10-14-86

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by E. E. Smith  
seconded by Redd, and duly adopted, placed on its  
passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	_____	<u>9</u>	_____	_____	_____
<u>BRADBURY</u>	_____	<u>✓</u>	_____	_____	_____
<u>BURNS</u>	_____	<u>✓</u>	_____	_____	_____
<u>EISBART</u>	_____	<u>✓</u>	_____	_____	_____
<u>GIAQUINTA</u>	_____	<u>✓</u>	_____	_____	_____
<u>HENRY</u>	_____	<u>✓</u>	_____	_____	_____
<u>REDD</u>	_____	<u>✓</u>	_____	_____	_____
<u>SCHMIDT</u>	_____	<u>✓</u>	_____	_____	_____
<u>STIER</u>	_____	<u>✓</u>	_____	_____	_____
<u>TALARICO</u>	_____	<u>✓</u>	_____	_____	_____

DATE: 11-25-86

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort  
Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING MAP) ORDINANCE (RESOLUTION) NO. \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

ATTEST:

(SEAL)

SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana,  
on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_  
19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

WIN MOSES, JR., MAYOR

# RECEIPT

*Cash*

No 1138

COMMUNITY DEVELOPMENT & PLANNING

FT. WAYNE, IND., 9/18 1986

RECEIVED FROM James Lubka \$ 50.00

THE SUM OF fifty 00 / 100 DOLLARS

ON ACCOUNT OF repaying 1201 E. State  
tax  
AUTHORIZED SIGNATURE



THIS IS TO BE FILED IN DUPLICATE

RECEIPT NO. \_\_\_\_\_

DATE FILED \_\_\_\_\_

INTENDED USE \_\_\_\_\_

9-18-86

Diversity present  
Business

I/We James C. and Jacqueline J. Libka

(Applicant's Name or Names)

do hereby petition your Honorable Body to amend the Zoning Map of Fort Wayne Indiana, by reclassifying from a/an B-1-B District to a/an B-3-B District the property described as follows:

A parcel of land situated in Bush's Homestead of the City of Fort Wayne, described as follows: Commencing at the intersection of the north line of State Street and the east line of Crescent Avenue; thence east along the north line of State Street a distance of 70 feet to a point; thence north parallel with the east line of Crescent Avenue a distance of 140 feet to a point; thence west parallel with the north line of State Street a (over) (Legal Description) If additional space is needed, use reverse side.

ADDRESS OF PROPERTY IS TO BE INCLUDED: 1201 East State Blvd., Fort Wayne, In. 46805

(General Description for Planning Staff Use Only)

I/We, the undersigned, certify that I am/We are the owner(s) of fifty-one percentum (51%) or more of the property described in this petition.

James C. Libka

4033 Spanish Trail

Jacqueline J. Libka

Fort Wayne, In. 46815

(Name)

(Address)

(Signature)

(If additional space is needed, use reverse side.)

Legal Description checked by \_\_\_\_\_

(OFFICE USE ONLY)

NOTE FOLLOWING RULES

All requests for deferrals, continuances, withdrawals, or request that the ordinance be taken under advisement shall be filed in writing and be submitted to the City Plan Commission prior to the legal notice pertaining to the ordinance being sent to the newspaper for legal publication. If the request for deferral, continuance or request that ordinances be taken under advisement is received prior to the publication of the legal ad being published the head of the Plan Commission staff shall not put the matter on the agenda for the meeting at which it was to be considered. The Plan Commission staff will not accept request from petitioners for deferrals, continuances, withdrawals, or requests that an ordinance be taken under advisement, after the legal notice of said ordinance is forwarded to the newspaper for legal publication but shall schedule the matter for hearing before the City Plan Commission. (FILING FEE \$50.00)

Name and address of the preparer, attorney or agent.

James C. Libka

4033 Spanish Tr., Ft. Wayne, In. 46815

(219)-485-1553

(Name)

(Address & Zip Code)

(Telephone Number)

COMMUNITY DEVELOPMENT AND PLANNING / Division of Long Range Planning & Zoning and (CITY PLAN COMMISSION) / Room #830, City-County Building, One Main Street, Fort Wayne, IN 46802 (PHONE: 219/427-1140).

Applicants, Property owners and preparer shall be notified of the Public Hearing approximately ten (10) days prior to the meeting.



**Legal Description of property to be rezoned.**

distance of 47 feet; more or less, to a point in the easterly line of

St. Joe Road formed by the intersection of the easterly line of St. Joe

Road and the south line of alley; thence southwesterly along the easterly

line of St. Joe Road to its intersection of east line of Crescent Avenue,

approximately 38 feet, thence south along the east line of Crescent Ave-

nue a distance of 115.7 feet to the point of beginning; commonly known as

the Northeast Corner of State Street and Crescent Avenue.

*Recorded Deed Book No. 730 p. 431 8-12-69*

**Owners of Property**

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
(Name)	(Address)	(Signature)

NOTE: All checks are to be made payable to: CITY OF FORT WAYNE

This form is to be filed in duplicate.

**NOTICE:**

FILING OF THIS APPLICATION GRANTS THE CITY OF FORT WAYNE PERMISSION TO POST  
"OFFICIAL NOTICE" ON THE PETITIONED PROPERTY.

FAILURE TO POST, OR TO MAINTAIN POSTING CAN PREVENT THE PUBLIC HEARING  
FROM BEING HELD.

RESOLUTION OF ZONING ORDINANCE AMENDMENT RECOMMENDATION

WHEREAS, the Common Council of the City of Fort Wayne, Indiana, on October 14, 1986 referred a proposed zoning map amendment to the City Plan Commission which proposed ordinance was designated as Bill No. Z-86-10-15; and,

WHEREAS, the required notice of public hearing on such proposed ordinance has been published as required by law; and,

WHEREAS, the City Plan Commission conducted a public hearing on such proposed ordinance on October 20, 1986.

NOW THEREFORE, BE IT RESOLVED that the City Plan Commission does hereby recommend that this ordinance be returned to the Common Council with a DO NOT PASS recommendation based on the Commission's following "Findings of Fact".

(1) the grant will be injurious to the public health, safety, morals and general welfare of the community;

(2) the use or value of the area adjacent to the property included in the rezoning will be affected in a substantially adverse manner;

(3) the need for the rezoning does not arise from conditions peculiar to the property involved and the condition is not due to the general conditions of the neighborhood;

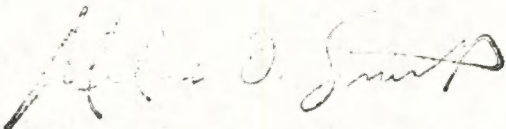
(4) the strict application of the terms of the zoning ordinance will not constitute an unusual and unnecessary hardship to this property;

(5) the grant interferes substantially with the comprehensive plan adopted under the 500 series of the metropolitan development law; and,

BE IT FURTHER RESOLVED that the Secretary is hereby directed to present a copy of this resolution to the Common Council at its next regular meeting.

This is to certify that the above is a true and exact copy of a resolution adopted at the meeting of the Fort Wayne City Plan Commission held October 27, 1986.

Certified and signed this  
6th day of November 1986.



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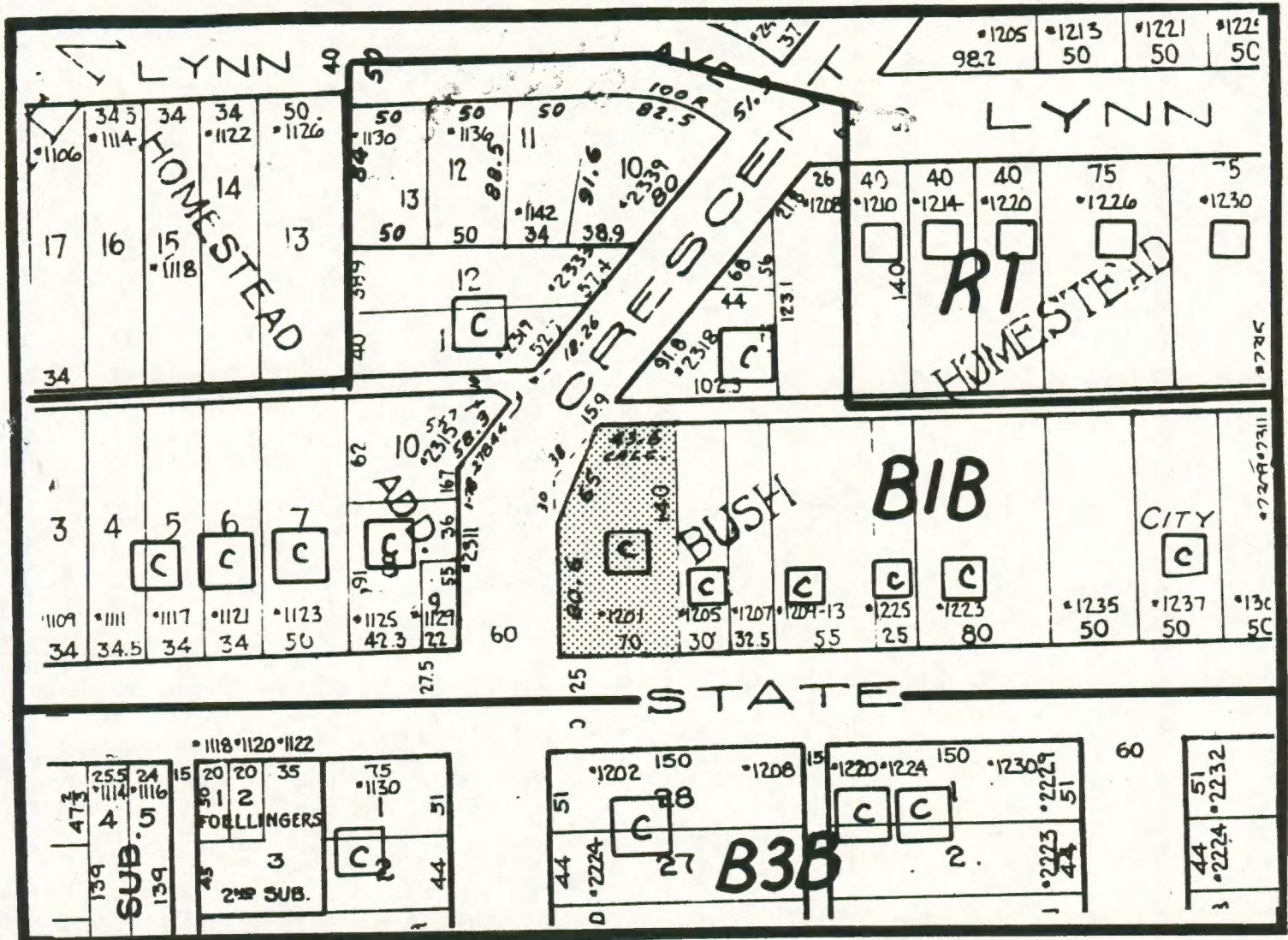
Melvin O. Smith  
Secretary



# A PETITION TO AMEND THE ZONING MAP BY RECLASSIFYING THE DESCRIBED PROPERTY FROM A B-1-B DISTRICT TO A B-3-B DISTRICT

MAP NO. 0-18

COUNCILMANIC DISTRICT NO. 2



## ZONING:

BIB LIMITED BUSINESS 'B'  
B3B GENERAL BUSINESS 'B'  
RI RESIDENTIAL DISTRICT

## LAND USE:

□ SINGLE FAMILY  
◻ COMMERCIAL

SCALE: 1" = 100'

DATE: 10-6-86





# Division of Community Development & Planning

FACT SHEET

2-00-10-13

BILL NUMBER

## BRIEF TITLE

Zoning Ordinance Amendment  
From B-1-B to B-3-B

## APPROVAL DEADLINE

## REASON

## DETAILS

### Specific Location and/or Address

1201 East State Street

### Reason for Project

To allow for the sale of used cars.

### Discussion (Including relationship to other Council actions)

20 October 1986 - Public Hearing

Jim Libka, petitioner and owner, appeared before the Commission. Mr. Libka stated he has been the owner and proprietor of service station located on the property in question for approximately 30 years. He stated the reason they are asking for the change of zone is to allow for them to sell used cars from the property in addition to running the service station. He stated this rezoning may also be a matter of survival for his business. He stated that his business supports three families. He stated that the need for the rezoning has come about because of the changes in the marketing of gasoline. He stated that the competition is far greater than it was 25 years ago. He stated that in addition to the selling of gasoline being marketed in being other areas they are not competing with the service part of their business, with such companies as "Jiffy Lubes", "Grease Monkeys" specialized muffler agencies, brake shops, tune up shops. He stated that they are one of approximately 50 service stations still in the business as opposed to the nearly 350 service stations in the 1960's. He stated that within the last 30 days the EPA has met with top level oil industry people and have proposed new controls concerning underground gasoline storage. He stated that one of the proposals is that any underground storage tank that store gasoline or hazardous materials will give a life of 20 years, anything 20 years or older would be excavated and replaced with new ones. He stated big oil can afford this type of an expenditure. He stated that small businesses such as his could not come up with the capital necessary to meet this new regulation in the passed. He stated that one of the concerns expressed in the staff analysis is was that this would cause an increase in traffic and thereby pose a threat to the general public. He stated that he would point out that they have approximately 200 cars a day coming in and out of the business. He stated that if it were successful in auto sales, he doubted that they would have 200 potential car sales a day. Mr. Libka stated that the staff analysis felt that the property values would be better served by this property remaining B-1-B. He stated that they as business people are endeavoring to protect the value of their property and the neighborhood as much as anyone. He stated he could not see how a boarded up service station could be a better solution to their dilemma than what they are asking for. He stated that the other three corners are already zoned B-3-B. He stated that they are merely asking for the same opportunity as their business neighbors.

## POSITIONS

## RECOMMENDATIONS

### Sponsor

City Plan Commission

### Area Affected

City Wide

Other Areas

### Applicants/ Proponents

### Applicant(s)

James & Jacqueline Libka  
City Department

Other

### Opponents

### Groups or Individuals

Ray Racine, Northside Neigh  
Assn.  
Basis of Opposition

- zoning would create a  
problem in area

### Staff Recommendation

☐ For ☒ Against

Reason Against  
- create traffic problems  
- would allow for more  
intense uses

### Board or Commission Recommendation

By

☐ For ☒ Against  
☐ No Action Taken

☐ For with revisions to conditio  
(See Details column for conditio

### CITY COUNCIL ACTIONS (For Council use only)

☐ Pass ☐ Other  
☐ Pass (as amended) ☐ Hold  
☐ Council Sub. ☐ Do not pa



## DETAILS

John Shoaff questioned if they would continue as a service station until such time as the EPA passed the law requiring they replace the tanks.

He said that they may not implement the law, but if they do they would still maintain the service part of their present business as well as sell cars.

Mr. Shoaff asked if there would be any physical changes to the property, such as with signs and lighting.

Mr. Libka stated that they would not have any major physical changes, unless they have to pull out the gas pumps. He stated that the signage would be less if they did not sell gas, they would be rid of the large Marathon logo. He stated that the lighting would be what ever necessary for security reasons. He stated they have tried to be good neighbors. He stated that they maintain their property in good fashion.

Herman Friedrich questioned if they were intended to get out of the service station business entirely and use the property for a used car lot.

Mr. Libka stated that they did not. He stated if they are forced out of the business of selling gas by the EPA ruling, they are intending to maintain the service facet of their business. He stated they are simply trying to plan ahead.

The proprietor of the Crescent Garage for 25 years appeared before the Commission in favor of the rezoning. He stated that Mr. Libka was indeed a good neighbor. He stated that Mr. Libka keeps his property up and is a credit to the neighborhood.

Steve Smith stated that the map shows the Crescent Garage as being zoned B-1-B not B-3-B as Mr. Libka indicated.

The gentlemen stated that 5 years ago he had everything from Crescent Avenue, from State Street north to the alley, from Crescent Avenue to Kentucky Avenue rezoned to B-3-B. He stated that he was a non-conforming use and he wanted to expand and in order to do so he had to rezone.

Ray Racine, with the Northside Neighborhood Association stated that Mr. Libka has been a good neighbor and does conduct his business well. He stated however, that they feel putting 3 businesses on one property will cause a problem. He stated that they have very little parking on this property and adding this type of business would create a greater problem. He stated if they could restrict the number of cars he could sell to one or two, they would have no objection to the rezoning. He stated if he went out of the service station business and simply sold cars it would not be objectionable, but to have three businesses on that property is objectionable.

Mr. Libka stated in rebuttal that the only way they have survived is by having a well rounded business.

## POLICY/ PROGRAM IMPACT

Policy or Program Change	<input type="checkbox"/> No	<input type="checkbox"/> Yes
Operational Impact Assessment		

(This space for further discussion)

Ben Eisbart stated that he would request staff to check the zoning of the property to the west and also he felt that recommendation "1." in the staff analysis is indeed the feeling of the staff it might be expanded upon. He stated that he failed to see how it was applicable in this situation.

There was no one else to speak in favor of or in opposition to the proposed rezoning.

It is to be noted that Ray Racine with the Northside Neighborhood Association withdrew their opposition to the proposed rezoning at the October 27, 1986 business meeting.

Item "1." in the staff analysis has been reevaluated and re-written the map of the area does now correctly reflect the zoning of the area.

Motion was made to return the ordinance to the Common Council with a DO NOT PASS recommendation, motion carried.

Of the 8 members present 7 voted in favor of denial one did not vote.

Project Start

Date 10-18-86

Projected Completion or Occupancy

Date 11-6-86

Fact Sheet Prepared by

Date 11-6-86

Patricia Biancaniello

Reviewed by

Date 11/12/86

Reference or Case Number



ORIGINAL

Admn. Appr. \_\_\_\_\_

COUNCILMANIC DISTRICT No. \_\_\_\_\_

DIGEST SHEET

ORIGINAL

TITLE OF ORDINANCE Zoning Ordinance Amendment

DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&P

SYNOPSIS OF ORDINANCE 1201 East State Blvd.

3-86-10-15

EFFECT OF PASSAGE Property is present zoned B-1-B - Limited Business. Property will become B-3-B - General Business District.

EFFECT OF NON-PASSAGE Property will remain B-1-B - Limited Business District.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) \_\_\_\_\_

(ASSIGN TO COMMITTEE (J.N.) \_\_\_\_\_



BILL NO. Z-86-10-15

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS  
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending the City of  
Fort Wayne Zoning Map No. 0-18

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG  
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)  
(~~RESOLUTION~~)

YES

NO

BEN A. EISBART  
CHAIRMAN

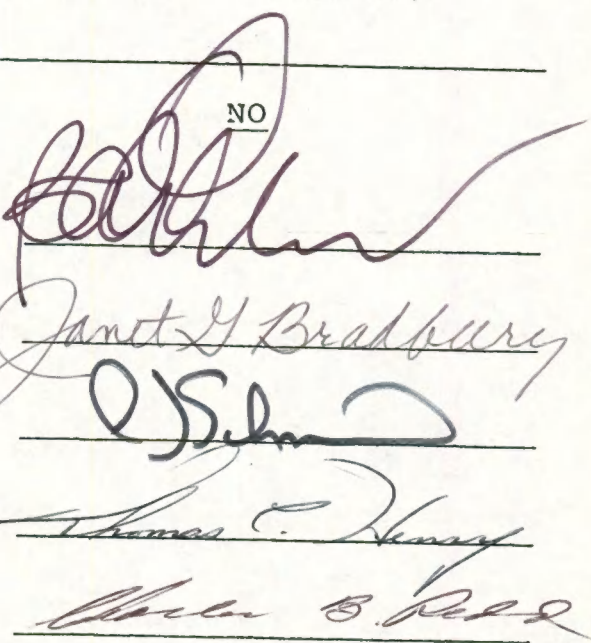
JANET G. BRADBURY  
VICE CHAIRWOMAN

DONALD J. SCHMIDT

THOMAS C. HENRY

CHARLES B. REDD

CONCURRED IN 11-2586



SANDRA E. KENNEDY  
CITY CLERK